

THE HONORABLE JOHN C. COUGHENOUR

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

VLADIK BYKOV,

Plaintiff,

v.

STEVEN G. ROSEN and his marital
community, MICHELINE MURPHY and her
marital community, MARCUS NAYLOR and
his marital community, BRIAN ROGERS and
his marital community and CITY OF SEATTLE,

Defendants.

CASE NO. C15-0713-JCC

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable John C. Coughenour, United States District Judge:

This matter comes before the Court on Plaintiff's motion for reconsideration (Dkt. No. 77) of this Court's order granting Defendants Rosen and Rogers' motion to strike (Dkt. No. 62).

"Motions for reconsideration are disfavored." LCR 7(h)(1). The Court will grant such motions only upon a showing of manifest error or new facts or law that "could not have been brought to its attention earlier with reasonable diligence." *Id.*

Plaintiff repeats his argument that his Second Amended Complaint ("SAC") properly re-pleads Constitutional claims against Defendants Rosen and Rogers. (Dkt. No. 77 at 5–6.) He over reads the Ninth Circuit's order when he claims it requires this Court to rule on the merits of

1 these claims. (*See id.* at 5; Dkt. No. 54 at 4.) Consistent with the Ninth Circuit’s mandate, on
2 remand this Court considered whether Plaintiff could allege plausible claims for relief under the
3 First, Fourth, and Fourteenth Amendments; it found he could not. (Dkt. Nos. 54 at 5, 56 at 3.)
4 Judicial immunity and judicially noticed records precluded the plausible assertion of these claims
5 against these Defendants—either as pled in Plaintiff’s First Amended Complaint, or upon
6 amendment. (Dkt. Nos. 56 at 3; 58 at 1.) This ruling complied with the Ninth Circuit’s mandate
7 and reaffirmed the Court’s dismissal of Plaintiff’s claims against Defendants Rosen and Rogers.

8 In his motion, Plaintiff also argues that judicial immunity does not bar his claims for
9 declaratory relief. (Dkt. No. 77 at 2.) Plaintiff did not raise this issue in his response to
10 Defendants’ motion to strike (Dkt. No. 66) or in his motion for reconsideration of this Court’s
11 prior order disposing of his Constitutional claims (Dkt. No. 57). It is not apparent that this
12 argument “could not have been brought to [the Court’s] attention earlier with reasonable
13 diligence.” *See* LCR 7(h)(2). Therefore, the Court will not consider it on reconsideration.

14 For the reasons stated herein, Plaintiff’s motion for reconsideration (Dkt. No. 77) is
15 DENIED.

16 DATED this 21st day of November 2017.

17 William M. McCool
18 Clerk of Court

19 s/Tomas Hernandez
20 Deputy Clerk